



United States Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

MEMORANDUM

SUBJECT: Request for a Ceiling Increase and a request for a 12-Month and \$2 Million Exemption for Removal Action at the CES Environmental Services, Inc. Site, Houston, Harris County, Texas

FROM: Gary Moore, On-Scene Coordinator
Prevention and Response Branch, Removal Team (6SF-PR)

TO: Carl Edlund, Director
Superfund Division

THRU: Ronald D. Crossland, Associate Director
Response and Prevention Branch (6SF-P)

I. PURPOSE

The purpose of this Action Memorandum is to document the request and approval of a 12-Month and \$2 Million Exemption for continued response actions at the CES Environmental Services, Inc. Site, Houston, Harris County, Texas. The removal action described herein continues to be in accordance with the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9604. This time-critical removal action provides for the removal of the threat to human health and the environment posed by abandoned and leaking chemicals.

In order to support the increase in the total project ceiling and the exemption from the \$2 million limit and 12-month statutory limit, this memorandum is also to request your concurrence on our findings that continued removal actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) Section 104, 42 U.S.C. Section 9604, are otherwise appropriate and consistent with potential remedial actions to be taken and to avoid a foreseeable threat to human health OR THE CONTINUED RESPONSE ACTIONS ARE IMMEDIATELY REQUIRED TO PREVENT, LIMIT OR MITIGATE AN EMERGENCY.

The removal actions continues to meet the criteria for conducting a removal action under Section 300.415 of the National Contingency Plan (NCP), 40 C.F.R. § 300.415.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS:	TXD008950461
Category of Removal:	Time Critical
Site ID:	A6JP
Latitude:	29.6984
Longitude:	-95.3435

A. Site Description

1. Removal Site Evaluation

On July 10, 2002, the Environmental Protection Agency (EPA) Region 6 Superfund Division Director signed the first Time Critical Action Memorandum (AM) for the El Paso County Metals Survey Site, El Paso, El Paso County, Texas, see Attachment 3. This AM proposed to remove/excavate contaminated arsenic and/or lead soils found on residential properties exceeding established screening levels of 24 parts per million (ppm) for arsenic and 500 ppm for lead, restore the property to the condition it was prior to the removal and arrange for the off-site disposal of the removed soils. All three of the actions initially approved [removal/excavate soils, restore property, and final off-site disposal of the excavated soils] started on November 13, 2002, and are currently on-going.

This Site is a former chemical recycling facility that filed for bankruptcy in 2010. The Site continues to be under the control of a Trustee appointed by the Bankruptcy Court to handle the CES Environmental Services, Inc. Estate.

The Site consists of the following structures: business office, training center/locker room, main processing building, drum cleaning shed, truck wash/office. Prior to September 2014, wastes were staged in a myriad of vessels including 11 vacuum boxes, 2 roll-off boxes, 12 frac tanks, 23 Aboveground Storage Tanks, 20 Wastewater Treatment Tanks, numerous sumps, trenches, secondary containments, vats, totes, drums and miscellaneous containers.

The EPA has conducted significant cleanup actions to address the abandoned and leaking chemical containers. The EPA has completed actions on all original vacuum boxes, frac tanks, tanker trailers, 20 of 23 Aboveground Storage Tanks, and 18 of 20 Wastewater Treatment Tanks. Additionally, the EPA has completed the bulking of a large portion of the vats, totes, super sacks, drums, and miscellaneous containers.

The remaining activities include but are not limited to containerizing 3 aboveground storage tanks, 2 wastewater treatment tanks, 1 large vat, drums, totes, miscellaneous containers, sumps, trenches, and secondary containments. Additionally, the remaining activities include cutting

up/disposing of empty chemical containers (ie. totes/drums), consolidating/disposing of visibly contaminated soils, and disposing of re-containerized wastes.

2. Physical Location

The Site is located at 4904 Griggs Road, Houston, Harris County, TX. Other contiguous properties associated with the site are 4900 Griggs Road, and 5910 Wayland Street. The Site is surrounded by residential, educational, and commercial properties. This area surrounding the Site is an Environmental Justice area. Approximately 80% of the boundary of the Site shares a common fence boundary with residential and school properties.

3. Site Characteristics

The Site is a former chemical recycling facility. As previously mentioned, there were a myriad of abandoned chemical containers of various sizes and in poor condition located on the Site. The EPA has addressed the majority of those containers but additional work is necessary to complete the action.

4. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant

Historical releases from the site have occurred in the recent past. On or about April 9, 2014, a release occurred from the facility which resulted in a Houston Hazmat Team response. The Estate through its consultant hired a response contractor to address the spill. The spill resulted in the release of materials with an aromatic odor (cresolic/phenolic). Additionally, this same odor was emanating from breeched but contained vacuum boxes containing cresolic/phenolic sludge materials. The TCEQ responded to the aftermath of this incident and took steps to further contain spillage and secure the facility.

On or about July 31, 2014, another release occurred from the facility. It is believed that the release occurred from a tanker trailer containing oily material and water. The spill material was carried off-site into the residential area by a 6 inch rainfall event. Vandalism is suspected as the cause of the incident as the source appeared to be a valve that had been opened. The City of Houston, TCEQ, and EPA responded to the incident. The City of Houston provided the initial response and TCEQ completed the response. EPA provided sampling support and repaired the security fencing around the facility.

As of April 2015, EPA continues to address the chemical containers by re-containerizing those containers and shipping them off for disposal. Until such actions are complete, there is a potential for further releases from the site which could impact the environment.

The information provided by the Estate's consultant shows that there are hazardous wastes along with various hazardous substances within containers located on the Site. The hazardous substance included but are not limited to:

	VB640	VB6042	VB25141	VB639	VB618	VB2567	VB610
Benzene (D018)	•	•	•	•	•	•	•
Creosol (D023-026)	•	•	•			•	
2,4,6-Trichlorophenol (D042)	•		•			•	
pH (D002)					•		
Ignitability (D001)					•		•

	Oil 1	Oil 2	Oil 3	Oil 7	Oil 8	Oil 9	OT 2	OT 3	OT6	OT 7
Benzene (D018)	•	•	•	•	•	•	•	•	•	•
Creosol (D023-026)									•	
MEK (D035)										
1,2-Dichloroethane (D028)			•							

These chemicals are hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. 9601(14), and further defined at 40 C.F.R. 302.4.

5. NPL Status

This Site is not currently on the National Priorities List (NPL). The EPA is not pursuing NPL designation at this time.

6. Maps, Pictures and Other Graphic Representations

Attachment 1: August 26, 2014 Action Memorandum plus Attachments 1 – 3

Attachment 2: Updated Enforcement Attachment (Confidential)

B. Other Actions to Date

1. Previous Actions

In April 2014, the TCEQ Houston Regional Office conducted an emergency action at the site which include securing the entry gate on Wayland Street, relocating some chemical containers from warehouse on Wayland Street, placing piles of contaminated debris on plastic sheeting and covered with plastic sheeting, using sand to place containment or repair containment around chemical containers to provide secondary containment.

In August 2014, the City of Houston (COH) and the TCEQ Houston Regional Office conducted an emergency action at the Site and within the residential area south of the Site. It appears that a vandal open the valve on a tanker trailer with an oil and water mixture which was pushed into the residential community by storm water resulting from a 6 inch rainfall event. The COH and TCEQ removed the spilled material from open and covered storm sewers, flushed the storm sewers, removed the oily material from ponded areas on the site, repaired soil containment structures, and placed a containment structure to prevent offsite drainage from the facility. The EPA assisted in this effort by repairing the security fencing around the Site and sampling soil, water, suspected source, and conducting air sampling.

In May 2014, The TCEQ required the Estate to take action on the site to the extent it had funding. Those actions started in July 2014 and included addressing the disposal of certain containers that were observed to be leaking and included Roll-Off Box 601, Vacuum Box 617, and 3 Waste Piles. These actions were completed on or about October 2014.

2. Current Actions

The EPA began cleanup actions on the Site in September 2014. The EPA has conducted significant cleanup actions to address the abandoned and leaking chemical containers. The EPA has completed actions on all original vacuum boxes, frac tanks, tanker trailers, 20 of 23 Aboveground Storage Tanks, and 18 of 20 Wastewater Treatment Tanks. Additionally, the EPA has completed the bulking of a large portion of the vats, totes, super sacks, drums, and miscellaneous containers.

The remaining activities include but are not limited to containerizing 3 aboveground storage tanks, 2 wastewater treatment tanks, 1 large vat, drums, totes, miscellaneous containers, sumps, trenches, and secondary containments. Additionally, the remaining activities include cutting up/disposing of empty chemical containers (ie. totes/drums), consolidating/disposing of visibly contaminated soils, and disposing of re-containerized wastes.

C. State and Local Authorities' Role

1. State and Local Actions to Date

See II.B.1 above.

2. Potential for continued State/Local response

The TCEQ does not have sufficient resources to fully address the site conditions but has committed to disposing of a portion of the wastes of up to \$ 500,000. The TCEQ has also conducted the PA/SI under contract to EPA to evaluate the Site for potential ranking on the NPL and/or State Superfund should Potentially Responsible Parties (PRPs) not be identified

The City of Houston is assisting EPA by providing the following: free potable water from area hydrant for container cleaning and decontamination activities; free discharge to sanitary sewer for contaminated storm water; barricades for restricting access to Wayland Street; and, city personnel to conduct periodic air monitoring activities and nuisance odor observation in the off-site areas.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

Section 300.415 of the NCP lists the factors to be considered in determining the appropriateness of a removal action. Paragraphs (b)(2)(i), (iii), (iv) and (vii) directly apply to the conditions at the Site. Any one of these factors may be sufficient to determine whether a removal action is appropriate.

A. Threats to Public Health or Welfare

1. Exposure to Human Populations, Animals or the Food Chain, NCP Section 300.415(b)(2)(i).

Although EPA has conducted significant cleanup actions to address the abandoned chemicals located on the site, there remains a threat for exposure to adjacent populations until the wastes have been removed from existing containers, re-containerized, and disposed off-site at a permitted disposal facility.

2. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release, NCP Section 300.415(b)(2)(iii).

Although EPA has conducted significant cleanup actions to address the abandoned chemicals located on the site, these containers continue to pose a threat of release until

such chemicals have been removed from existing containers, re-containerized, and disposed off-site at a permitted disposal facility.

3. High Levels of Hazardous Substances or Pollutants or Contaminants Soils Largely at or Near the Surface, that May Migrate, NCP Section 300.415(b)(2)(iv).

Although this current action is not specifically designed to address the overall potential soil contamination in on or off-site locations, it is designed to address significant visible contamination in the on-site areas to limit off-site migration of contaminant from obvious sources. The soil areas of the Site have not been investigated but are expected to have been contaminated as a result of the historic operations of the facility as well as the recent vandalism resulting in chemical spillage and dumping of roll-off boxes full of chemical contaminated debris.

4. Weather Conditions that may Cause Hazardous Substances or Pollutants or Contaminants to Migrate or be Released, NCP Section 300.415(b)(2)(v).

The Site is located near the Texas Gulf Coast and is subject to severe weather conditions including significant thunderstorms, flooding rainfall, tropical storms and hurricanes. These conditions could rupture containers and cause releases which could impact surrounding residential population and properties as well as causing releases to storm water systems that drain to the Houston Ship Channel and Gulf of Mexico.

5. Threat of Fire or Explosion, NCEP Section 300.415(b)(2)(vi)

The Site is abandoned which makes it subject to arson. Additionally, lightning strikes could result in fire or explosion. A fire or explosion would result in a potential inhalation exposure to the surrounding populations as well as a wide spread evacuation of the area.

6. Availability of Other Response Mechanisms, NCP Section 300.415(b)(2)(vii).

The EPA intends to address the chemical containers, spillage on hard surfaces, and visible contamination located on the Site. The TCEQ has requested assistance from the EPA as they do not have the funding necessary to fully address the actions envisioned by the removal action. The TCEQ intends to assist with this action with their own contract mechanisms.

B. Threats to the Environment

It is unlikely that there would be a significant ecological impact resulting from the contamination or spillage on the Site. This Site poses more of a human health threat due primarily to potential exposure to the chemicals located on the Site.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances, pollutants or contaminants from this Site, if not addressed by continuing the implementation of the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to the public health, welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS

Emergency Exemption

1. There is an immediate risk to public health or welfare or the environment:

There continues to be an immediate risk to public health or welfare or the environment from the abandoned chemicals located on the Site as long as such wastes remain on-site and unmanaged. Until wastes are properly disposed off-site, the risk to public health or welfare or the environment is still present as documented in the Action Memorandum dated August 26, 2014.

2. Continued response actions are immediately required to prevent, limit, or mitigate an emergency:

The EPA initiated response actions primarily to remove the chemical wastes located on the site and until this action is completed, the emergency situation remains.

3. Assistance will not otherwise be provided on a timely basis:

The EPA initiated this action primarily to remove the chemical wastes located on the site. The State and Local entities do not have the funding to complete the action and therefore to complete such actions on a timely basis.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

The EPA anticipates the following activities:

- Removal/Disposal of chemicals;
- Decontaminating chemical jars, pails, drums, totes, vats, and other containers and disposing/recycling as determined necessary;

- Decontaminating portable containers, aboveground storage tanks, vacuum boxes, roll-off boxes, frac tanks, and other bulk storage containers and disposing/recycling as determined necessary;
- Removing/Disposing of visible chemical spillage to soil and other surfaces;
- Removing/Disposing of contaminated and/or non-contaminated debris;

2. Contribution to Remedial Performance

The action is intended to address the chemical containers, spillage on hard surfaces, and visible contamination located on the Site. As a result, this action will be consistent with any actions that would be required should a Remedial Action be determined necessary.

3. Applicable or Relevant and Appropriate Requirements

This removal action will be conducted to eliminate the actual or potential release of a hazardous substance, pollutant, or contaminant to the environment, pursuant to CERCLA, 42 U.S.C. § 9601 et seq., in a manner consistent with the NCP, 40 C.F.R. Part 300. As per 40 C.F.R. § 300.415(i), Fund-financed removal actions pursuant to CERCLA Section 104, 42 U.S.C. § 9604, and removal actions pursuant to CERCLA Section 106, 42 U.S.C. § 9606, shall, to the extent practicable considering the exigencies of the situation, attain the applicable or relevant and appropriate requirements under Federal environmental law, including the Toxic Substances and Control Act (TSCA), 15 U.S.C. § 2601 et seq., the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300 et seq., the Clean Air Act (CAA), 42 U.S.C. § 7401 et seq., Clean Water Act (CWA), 33 U.S.C. § 1251 et seq., the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., or any promulgated standard, applicable or relevant and appropriate requirements, criteria, or limitation under a state environmental or facility citing law that is more stringent than any Federal standard, requirement, criteria, or limitation contained in a program approved, authorized or delegated by the Administrator and identified to the President by the state.

Due to the fact that consolidation and offsite disposal are the principal elements of this removal action, RCRA waste analysis requirements found at 40 C.F.R. §§ 261.20 and 261.30, RCRA manifesting requirements found at 40 C.F.R. § 262.20, and RCRA packaging and labeling requirements found at 40 C.F.R. § 262.30 are deemed to be relevant and appropriate requirements for this removal action. Because onsite storage of hazardous wastes by EPA is not expected to exceed ninety days, specific storage requirements found at 40 CFR Part 265 are not applicable or relevant and appropriate (See 40 CFR § 262.34). All hazardous substances, pollutants, or contaminants removed offsite for treatment, storage, or disposal shall be treated, stored, or disposed at a facility in compliance, as determined by EPA, pursuant to 40 CFR § 300.440. All offsite transportation of hazardous materials will be performed in conformity with U.S. Department of Transportation (DOT) requirements at 49 CFR § 172.

4. Project Schedule

The EPA is currently conducting response actions and it is anticipated that response actions will continue without delay in order for the threats to be mitigated as quickly as possible to address without demobilization from the Site.

B. Estimated Costs

Extramural Costs	Current Ceiling	Proposed Increase	Proposed Ceiling
ERRS	\$ 1,823,398	\$ 500,000	\$ 2,323,398
START-3	\$ 150,000	\$ 100,000	\$ 250,000
Contingency	\$ 26,602	\$ 100,000	\$ 126,602
TOTALS	\$ 2,000,000	\$ 700,000	\$ 2,700,000

The total budget for this removal action based on full-cost accounting practices that will be eligible for cost recovery. The budgeted costs are estimated to be **\$ 3,915,540**.

$((\text{Direct Cost}) + (\text{Other Direct}) + (\text{Contingency})) + (45.02\% \text{ of Total Direct } \{\text{Indirect Cost}\}) = \text{Estimated EPA Cost for a Removal Action}$

$$\$ 2,323,398 + 250,000 + 126,602 + (45.02\% \times \$ 2,700,000) = \$ 3,915,540$$

Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2002. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only, and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor the deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

The Estate and the TCEQ do not have the funding necessary to address the full extent of the proposed actions identified in this Action Memorandum. If this response action is not taken, the surrounding residential populations may be exposed to chemicals resulting from spillage whether it be by vandalism, weather conditions, or deterioration of containers.

Should the action described in this AM be delayed or not taken, the potential exposure of nearby

human populations to hazardous substances found in the surface and subsurface soils will remain unabated. If the ceiling is not increased, the removal action would cease within three weeks and thousands of people, including hundreds of children and other sensitive populations, would continue to be exposed for many years to hazardous substances, with potential for health effects as described in Section III.

VIII. OUTSTANDING POLICY ISSUES

There are no known outstanding policy issues associated with this Site.

IX. ENFORCEMENT

See Enforcement Attachment.

X. RECOMMENDATION

Conditions at the Site meet the criteria for a CERCLA section 104(c) emergency exemption and I recommend your approval of exemption from the 12-Month and \$ 2 Million limitation for the CES Environmental Services, Inc. Site, Houston, Harris County, Texas developed in accordance with CERCLA, 42 U.S.C. § 9601 et seq., and not inconsistent with the NCP, 40 C.F.R. Part 300. This action was based on the administrative record for the Site. Because the conditions at the Site meet the criteria defined in Section 300.415 and 300.305 of the NCP I recommend your approval of the continuation of this removal action. The total CERCLA extramural project ceiling if approved will be \$ 2,700,000. Of this, an estimated \$ 2,323,398 (without contingency) will come from the Regional Removal Allowance.

APPROVED: _____ DATE: _____

Attachments